

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BOZZUTO,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#: _____
DATE FILED: 8/19/2020

1:16-cv-07149-ALC

ORDER

ANDREW L. CARTER, JR., United States District Judge:

On September 12, 2016, Mr. Bozzuto filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. 2255. ECF No. 1. On October 18, 2016, the Court ordered the United States to answer Mr. Bozzuto's motion. ECF No. 4. That order also indicated that all further papers filed or submitted for filing must include the related criminal docket number and will be docketed in the criminal case. ECF No. 4. On December 27, 2016, the United States filed a memorandum in opposition to Mr. Bozzuto's motion on the related criminal docket. Case No. 1:16-cv-07149-ALC, ECF No. 54. The opposition does not appear on the civil docket. On January 13, 2017, Mr. Bozzuto filed a letter purporting to notifying the Court of the United States' non-response, though the United States did in fact respond. ECF No. 6, Case No. 1:16-cv-07149-ALC, ECF No. 55.

Therefore, Mr. Bozzuto is hereby ORDERED to show cause why he should not be deemed to have waived his right of reply. Mr. Bozzuto must make this showing in writing by September 9, 2020. In order to cure his failure to reply, Mr. Bozzuto may also, instead, file a written reply by that date.

The Parties are further ORDERED to show cause why the Court should not dismiss this claim as moot in light of Mr. Bozzuto's release from prison on October 19, 2018. *See United States v. Key*, 602 F.3d 492, 494 (2d Cir. 2010) (finding challenge to criminal sentence moot where former-prisoner had been released and the "possibility [of termination of supervised release] is too

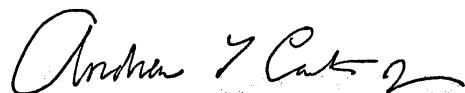
‘remote and speculative’ to ‘satisf[y] the case-or-controversy requirement of Article III, Section 2 of the Constitution.””) The Parties may make such showing in writing by or before September 23, 2020.

Defendant is further ordered to serve this motion on Plaintiff by or before August 24, 2020. For the avoidance of doubt as to whether Mr. Bozzuto received Defendant’s opposition, Defendant is also ordered to serve that on Mr. Bozzuto by the same date. The Court respectfully directs the Clerk of Court to also docket this Order in the related criminal matter, Case No. 1:16-cv-07149-ALC.

SO ORDERED.

New York, New York

Dated: August 19, 2020



ANDREW L. CARTER, JR.
United States District Judge